



March 1, 2019

**FILED ONLINE**

California Labor & Workforce Development Agency  
Attn: PAGA Administrator  
1515 Clay Street, Ste. 801  
Oakland, CA 94612

Re: Amazon Flex Tip Stealing

Dear Representative:

Our firm has been retained to represent Amine Oudouche against Amazon.com Services, Inc., Amazon Logistics, Inc. and/or any other Amazon subsidiary or affiliate involved with Amazon Flex (collectively "Amazon Flex") for violations of California labor law. As part of these violations, Mr. Oudouche intends to seek penalties under the Private Attorneys General Act of 2004 ("PAGA"). (See Lab. Code, §§ 2699, et seq.). Mr. Oudouche is seeking penalties on behalf of the State of California and all other aggrieved employees. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

Amazon Flex is a corporation organized and existing under the laws of the State of Washington, and conducts business throughout the State of California. Its corporate office is at 410 Terry Avenue North, Seattle, Washington 98109.

Amazon Flex is a delivery company that lets people order and quickly receive items from Prime Now. To do this, Amazon Flex contracts with drivers to deliver packages to people in their local area. Drivers are guaranteed to make an hourly rate between \$18.00 and \$25.00 an hour depending on a variety of factors. When a package is delivered, customers are given the option of tipping their driver.

Amazon Flex counts tips toward meeting the minimum hourly guarantee. Thus, the bigger the tip, the less Amazon Flex has to pay its drivers. The only way a driver can earn more than the minimum hourly guarantee is for a customer to tip more than the minimum hourly guarantee. If that occurs, Amazon Flex pays the driver nothing.

This pay scheme violates Labor Code section 351 and 353.

Labor Code section 351 states: "No employer or agent shall collect, take, or receive any gratuity or a part thereof that is paid, given to, or left for an employee by a patron, or deduct any amount from wages due an employee on account of a gratuity, or require an employee to credit the amount, or any part thereof, of a gratuity against and as a part of the wages due the employee from the employer. Every gratuity is hereby declared to be the sole property of the employee or employees to whom it was paid, given, or left for. An employer that permits patrons to pay gratuities by credit card shall pay the employees the full amount of the gratuity that the patron

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indicated on the credit card slip, without any deductions for any credit card payment processing fees or costs that may be charged to the employer by the credit card company. Payment of gratuities made by patrons using credit cards shall be made to the employees not later than the next regular payday following the date the patron authorized the credit card payment.” (Lab Code, § 351.)

Labor Code section 353 states: “Every employer shall keep accurate records of all gratuities received by him, whether received directly from the employee or indirectly by means of deductions from the wages of the employee or otherwise. Such records shall be open to inspection at all reasonable hours by the department.” (Lab Code, § 353.)

“Employer” is defined as “every person engaged in any business or enterprise in this state that has one or more persons in service under any appointment, contract of hire, or apprenticeship, express or implied, oral or written, irrespective of whether the person is the owner of the business or is operating on a concessionaire or other basis.” (Lab Code, § 350, subd. (a).)

“Employee” is defined as “every person, including aliens and minors, rendering actual service in any business for an employer, whether gratuitously or for wages or pay, whether the wages or pay are measured by the standard of time, piece, task, commission, or other method of calculation, and whether the service is rendered on a commission, concessionaire, or other basis.” (Lab Code, § 350, subd. (b).)

“Gratuity” is defines as “any tip, gratuity, money, or part thereof that has been paid or given to or left for an employee by a patron of a business over and above the actual amount due the business for services rendered or for goods, food, drink, or articles sold or served to the patron.” (Lab Code, § 350, subd. (d).)

Amazon Flex has violated Labor Code section 351 because it uses customer tips to meet its drivers’ minimum hourly guarantee.

Amazon Flex has violated Labor Code section 353 because it includes customer tips in the minimum hourly guarantee and therefore does keep accurate records of the drivers’ tips. It also does not allow driver to access records showing how much they have received in tips.

Therefore, on behalf of all aggrieved employees, Mr. Oudouche seeks all penalties related to the above-mentioned violations of the California Labor Code under PAGA.

If you have questions or require additional information, please contact us. Thank you for your attention to this matter.

**PARRIS LAW FIRM**



John M. Bickford

Attorneys for Amine Oudouche  
and the Aggrieved Employees

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